

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 3:94CR143
(STAMP)

DONALD W. DENMARK

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION
AND REVOKING SUPERVISED RELEASE

On July 19, 2006, the defendant's supervising probation officer, Jocelyn R. Petsko, filed a petition to revoke the defendant's supervised release (Doc. 97) alleging that the defendant violated the terms of his supervised release by committing another federal, state, or local crime, by illegally possessing a controlled substance, and by frequenting places where controlled substances are illegally sold, used, distributed, or administered.

On January 3, 2007, United States Magistrate Judge David J. Joel conducted a hearing on the petition. At the hearing, the parties informed the Court that they had reached an agreement in regard to the alleged violations. Pursuant to that agreement, the defendant admitted guilt to violation number one alleging that the defendant committed a federal, state, or local crime in exchange for the United States' recommendation that the defendant receive a

twenty (20) month term of incarceration with no supervision to follow. Additionally, the parties agreed that the \$5,600 balance from the fine imposed by defendant's original sentence would be waived. On January 8, 2007, Magistrate Judge Joel issued his written Report and Recommendation recommending that the parties' agreement be given effect. Furthermore, the Report and Recommendation (Doc. 103) also provided that the this Court recommend to the Bureau of Prisons that the defendant be given credit for time served from December, 6, 2006, and that the defendant receive appropriate medical treatment for his various medical conditions.

Magistrate Judge Joel's Report and Recommendation informed the parties that they could file written objections within 10 days of service, and warned that a failure to file objections would waive the party's appellate rights should this Court adopt the Magistrate Judge's recommendations. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985).

Neither party has filed objections to the Report and Recommendation.

Pursuant to 28 U.S.C. § 636(b)(1), this Court conducted a *de novo* review of the above. As a result, the Court is of the opinion that the Magistrate Judge's Report and Recommendation (Doc. 103) should be, and is hereby, **ORDERED** adopted. As such, the Court now **REVOKES** the defendant's supervised release, and institutes a term

of twenty months incarceration with no supervision to follow. Additionally, it is further ORDERED the \$5,600 balance of the fine imposed by defendant's original conviction is **WAIVED**. The Court respectfully makes the following recommendations to the Bureau of Prisons:

1. That the defendant receive credit for time served from December 6, 2006, which occurred in connection with the admitted violation; and
2. That the defendant be medically evaluated and receive appropriate treatment for any medical conditions.

A Judgment and Commitment Order shall follow.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to the defendant, all counsel of record, and the appropriate agencies.

DATED this 5th day of February, 2007.

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE